



Paper No. 6

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MAILED

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Technology Center 2100

In re Application of: Howard B. Rosen)
Application No. 10/060,768)
Filed: January 30, 2002)
For: PROGRAMMABLE THERMOSTAT)
SYSTEM EMPLOYING A TOUCH)
SCREEN UNIT FOR INTUITIVE)
INTERACTIVE INTERFACE WITH)
A USER)

**DECISION ON PETITION TO
MAKE SPECIAL UNDER 37
C.F.R. §1.102(d) AND MPEP §
708.02 (I): MANUFACTURE**

This is a decision on the petition, filed November 6, 2002, under 37 C.F.R. §1.102(d) and M.P.E.P. §708.02(I): Manufacture, to make the above-identified application special.

The Petition is **DISMISSED**

In compliance with M.P.E.P. § 708.02(I), the petition must be accompanied by the required fee pursuant to 37 C.F.R. § 1.17(h) and a statement by the applicant, assignee or attorney/agent registered to practice before the Office alleging:

(A) The possession by the prospective manufacturer of sufficient presently available capital (stating approximately the amount) and facilities (stating briefly the nature thereof) to manufacture the invention in quantity or that sufficient capital and facilities will be made available if a patent is granted.

If the prospective manufacturer is an individual, there must be a corroborating affidavit from some responsible party, as for example, an officer of a bank, showing that said individual has the required available capital to manufacture;

(B) That the prospective manufacturer will not manufacture, or will not increase present manufacture, unless certain that the patent will be granted;

(C) That the prospective manufacturer obligates himself, herself or itself, to manufacture the invention, in the United States or its possessions, in quantity immediately upon the allowance of claims or issuance of a patent which will protect

the investment of capital and facilities; and

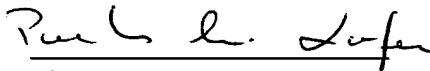
(D) That the applicant or assignee has made or caused to be made a careful and thorough search of the prior art, or has a good knowledge of the pertinent prior art.

Applicant must provide one copy of each of the references deemed most closely related to the subject matter encompassed by the claims if said references are not already of record.

The petition does not meet the requirements for special status. Although Applicant states (in ¶6 of the Declaration) that he obligates himself to manufacture in the United States in compliance with paragraph (C) above, Applicant (in ¶3 of the Declaration) identifies facilities in Canada and People's Republic of China to meet the requirement of paragraphs (A) above. The identification of production facilities outside the USA can not support the requirement for manufacture within the USA.

Accordingly, the Petition is **DISMISSED**. The application file is being forwarded to Central Files to await examination in its proper turn based on its effective filing date.

If the petitioner desires further review of this Decision, applicant should consider filing a Request for Reconsideration within 2 months of the mailing date of this Decision.



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